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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/163,207 09/29/98 ADIFON

L 4167-18

026584 TM02/0925  
OTIS ELEVATOR COMPANY  
INTELLECTUAL PROPERTY DEPARTMENT  
10 FARM SPRINGS  
FARMINGTON CT 06032

EXAMINER

MCALLISTER, S

ART UNIT PAPER NUMBER

2167

DATE MAILED:

09/25/01

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 19

Application Number: 09/163,207

Filing Date: September 29, 1998

Appellant(s): Leandre Adifon, et al

Randy G. Henley  
For Appellant

**EXAMINER'S ANSWER**

MAILED  
SEP 25 2001  
Technology Center 2100

This is in response to appellant's brief on appeal filed August 6, 2001.

**(1) Real Party in Interest**

A statement identifying the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

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A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3)     *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4)     *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5)     *Summary of Invention***

The summary of invention contained in the brief is deficient because it states that the drive motor is immediately adjacent the top of the hoistway door. Attachment 1 shows drawings 1-3 from the application marked for clarity. The motor 24 and the door 16 are separated by a rigid header for the door (marked H by examiner), space above the header, and a mounting bracket (marked B by examiner).

**(6)     *Issues***

The appellant's statement of the issues in the brief is correct.

**(7)     *Grouping of Claims***

Appellant's brief includes a statement that claims 1,2,6-8, 10, 13, and 18 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

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Appellant's brief includes a statement that claims 1, 2, 6-8, 10, 13, and 18 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *ClaimsAppealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

JP 53-73751	Takahashi	6/1978
JP 63-178277	Sugiyama	11/1988
5490578	Aulanko et al	2/1996
4280593	Moore	7/1981

**(10) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (JP 51-148093).

Takahashi shows all elements of the claim including a hoistway ceiling comprising the hatched surface at the top of the hoistway (see Fig. 1); the drive motor 5 being located immediately adjacent to one of a top and bottom portion of a hoistway door, in this case above and adjacent a top portion of a topmost door (see Fig. 1). It also shows the drive motor below the hoistway ceiling. Although not clearly shown, the reference inherently discloses a plurality of hoistway doors since an elevator system requires a plurality of floors.

As to claim 6, it is noted that Takahashi discloses that the motor is enclosed relative to the adjacent hallway by a housing comprising the ceiling of the hallway and the walls and ceiling of the machine room at the top of the hoistway (see Fig. 1).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was

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commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 7, 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Sugiyama (JP 63-178277).

Takahashi discloses all elements of the claim except a movable panel protruding into the elevator hallway above the hoistway door. Sugiyama discloses a movable panel 7 protruding into a landing (Fig. 5). Given the position of the motor and the elevator door, the movable panel would inherently be located above and be accessible from a position in front of the hoistway door. It would have been obvious to one of ordinary skill in the art to modify the housing of Takahashi by adding the movable panel of Sugiyama in order to facilitate easier and safer access to the motor for inspection and maintenance.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Moore.

Takahashi, as previously discussed, discloses a housing the motor, but does not disclose that the drive and controller are collocated with the motor in the housing. Moore shows the motor 19, controller 20, and drive 21 collocated. It would have been obvious to one of ordinary

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skill in the art modify the apparatus of Takahashi by housing the motor, drive and controller together as taught by Moore in order to facilitate maintenance.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Aulanko et al (5,490,578).

Takahashi discloses all elements of the claim except at least two sheaves on the bottom of the elevator car wherein a portion of the elongated connector underslings the car. Aulanko et al disclose two sheaves 4, 5 under the car and further discloses that the elongated connector 3 underslings the car. It would have been obvious to one of ordinary skill in the art to modify the elevator of Takahashi by using the roping configuration of Aulanko et al in order to ease the load on the motor.

**(11) *Response to Argument***

**(1) Whether claims 1, 2, and 6 are anticipated under 35 U.S.C. 102(b) by Takahashi**

Applicant argues that Takahashi does not anticipate claims 1, 2, and 6 because the drive motor 5 is not located *immediately adjacent* [emphasis added by appellant] to a top or bottom portion of a hoistway door.

The appellant concurs with the examiner that adjacent means “not distant; nearby” and does not dispute that the position of the motor of Takahashi satisfies that criteria. Rather, appellant argues that the addition of “immediately” substantially sets the claimed invention apart from the apparatus of Takahashi. The examiner disagrees.

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The examiner contends that even considering that the modifier “immediately”, the motor of Takahashi fulfills the immediate adjacency test in every sense that the claimed invention does. *Merriam Webster’s Collegiate Dictionary*, 10 Ed. defines immediately as “1: in direct connection or relation”. Appellant’s Figure 1 shows the motor 24 and the door 16. In between the door and the motor are the header which supports the door (which can be better seen as the structure H in amplified drawings in Attachment 1), a space between the header and a motor bracket (the piece of channel marked B in the amplified drawings of Attachment 1), and the bracket itself. If the motor of the claimed invention were in contact or even separated by a very small distance with no structure in between, a strict interpretation of “immediately adjacent” as argued by the appellant would be warranted. However, as shown above, this is not the case. Figure 1 of Takahashi shows that the motor 5 is separated from the door by a header above the door, and mounting brackets 10, 12. While the motor may be marginally closer in either the claimed invention or the Takahashi reference, there is no difference in kind; both have significant separation between the motor and the door and both have other items in between the top portion of the door and the motor.

To strictly interpret “immediately adjacent” as requiring that the motor be “right next to the hoistway door” (pg. 4, ln. 15 of Appeal Brief) as argued by appellant is unreasonable since the motor of the appellant’s claimed invention is not “right next” to the hoistway door as discussed above; it is nearby, but it separated by intervening structure as well as space.

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Alternatively, if it can be said that the motor of the claimed invention is right next to the door, the same can be said of the configuration of Takahashi, since there is no material difference between Takahashi and the claimed invention in that both are nearby the top portion of the door, but both are separated by both space and a small distance.

Therefore, the 35 U.S.C. 102(b) rejection of claims 1, 2, and 6 is proper since Takahashi shows all elements of the claim, including immediate adjacency.

**(2) Whether the Examiner has met his burden to establish a prima facie case of obviousness under 35 U.S.C. 103 in the rejection of claims 7, 8, and 18 as unpatentable over Takahashi in view of Sugiyama**

The appellant argues that the rejection is improper because some elements of the claims are not shown in the references. Appellant makes no arguments against motivation for the combination.

First, appellant argues that the position of the motor in Takahashi is not in a location “amenable to having access from a position in front of the hoistway door”. The examiner disagrees. As modified by Sugiyama, Takahashi has a pair of access doors on the hallway ceiling above the hoistway door (that is, the horizontal cross-hatched surface below the motor in Fig. 1 of Takahashi). These doors open down into the hallway in front of the door, allowing a worker access to the motor above. While a mechanic may have to climb partially into the space above the ceiling, he is still accessing the motor “from a position in front of the hoistway door” (claim 1,

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lines 9-10) as required by the claim. Assuming, for the sake of argument, that the mechanic were to climb entirely into the space above the ceiling, he would still be in front of the hoistway door, although also over the hoistway door.

Next, appellant argues that the moveable panels of Sugiyama, as applied to the configuration of Takahashi, open into a space “above the hallway or landing area” (pg. 6, lines 11-12 of Appeal Brief) instead of “into the adjacent hallway”. The examiner disagrees. The hallway extends from the floor to the ceiling. Since the doors open down from the hallway ceiling, they open into an upper portion of the hallway.

Therefore, with respect to claims 7, 8, and 18, the 35 U.S.C. 103 rejection is proper since the references are properly combined and the combination shows all elements of the claims.

**(3) Whether the Examiner has met his burden to establish a prima facie case of obviousness under 35 U.S.C. 103 in the rejection of claim 10 as unpatentable over Takahashi in view of Moore**

Applicant argues that Takahashi fails to show a motor immediately adjacent a top portion of a hoistway door, as discussed above for the 35 U.S.C. 102(b) rejection. No additional arguments are offered.

Please see the arguments above.

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**(4) Whether the Examiner has met his burden to establish a prima facie case of obviousness under 35 U.S.C. 103 in the rejection of claim 13 as unpatentable over Takahashi in view of Aulanko et al**

Applicant argues that Takahashi fails to show a motor immediately adjacent a top portion of a hoistway door, as discussed above for the 35 U.S.C. 102(b) rejection. No additional arguments are offered.

Please see the arguments above.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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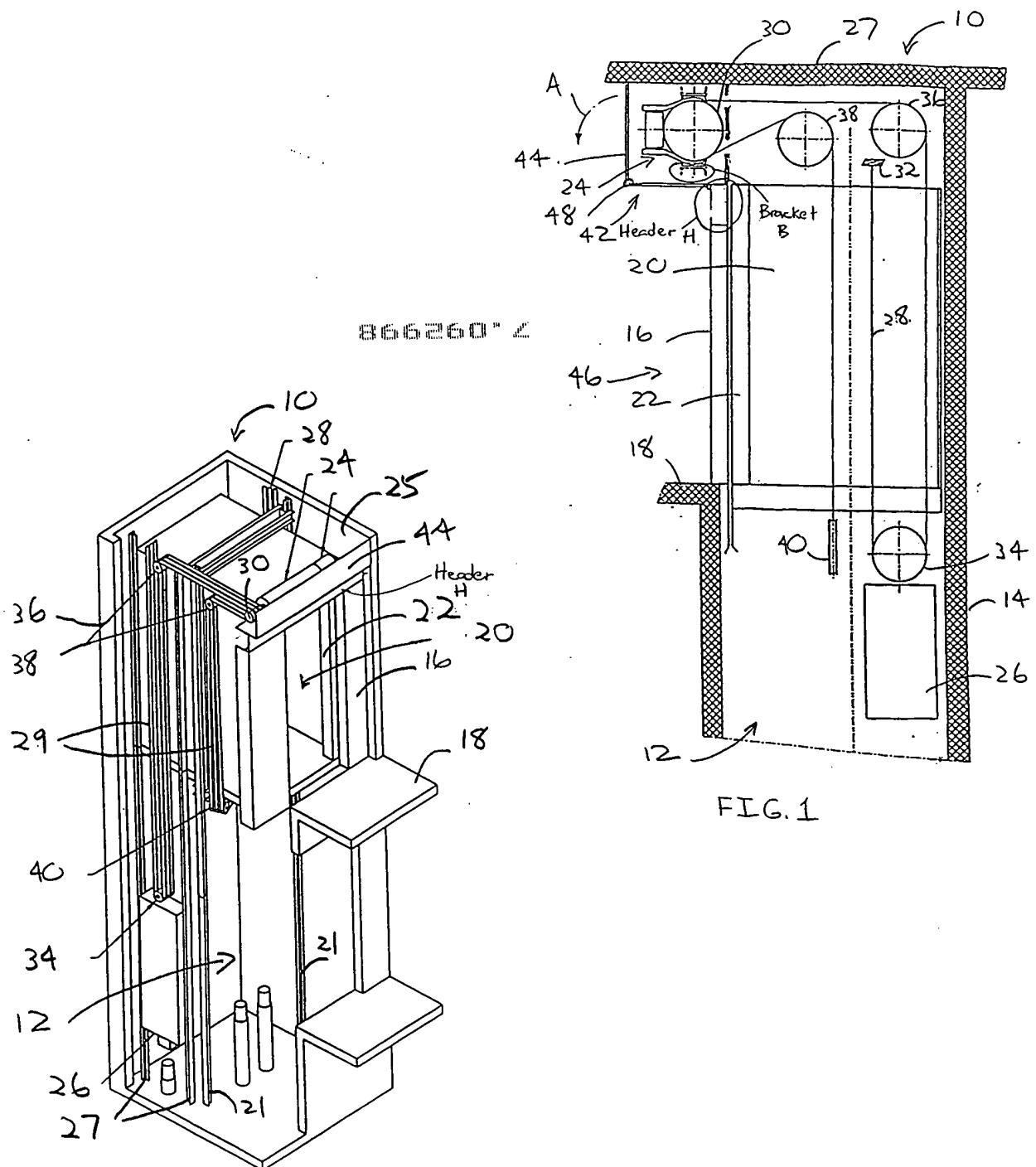


FIG. 2